

Revised 03/06 WDNV

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

13CV00596SR

**FORM TO BE USED IN FILING A COMPLAINT
UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983
(Prisoner Complaint Form)**

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

A. Full Name And Prisoner Number of Plaintiff: NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, each plaintiff must submit an in forma pauperis application and a signed Authorization or the only plaintiff to be considered will be the plaintiff who filed an application and Authorization.

1. Armond McCloud #96A4185
2. _____

-VS-

B. Full Name(s) of Defendant(s) NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. If you have more than six defendants, you may continue this section on another sheet of paper if you indicate below that you have done so.

1. [REDACTED] 4. "John Doe" Correctional official
2. "John Doe" Correctional official 5. _____
3. "John Doe" Correctional official 6. _____



2. STATEMENT OF JURISDICTION

This is a civil action seeking relief and/or damages to defend and protect the rights guaranteed by the Constitution of the United States. This action is brought pursuant to 42 U.S.C. § 1983. The Court has jurisdiction over the action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4), and 2201.

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name and Prisoner Number of Plaintiff: Armond McCloud D# 96A4185

Present Place of Confinement & Address: Southport Correctional Facility
Box 2000 Pine City, NY 14871

Name and Prisoner Number of Plaintiff: _____

Present Place of Confinement & Address: _____

Name of Defendant:

(If applicable) Defendant is Sued in ✓ Individual and/or ✓ Official Capacity

Address of Defendant:

Name of Defendant:

(If applicable) Official Position of Defendant:

(If applicable) Defendant is Sued in ✓ Individual and/or ✓ Official Capacity

Address of Defendant:

Name of Defendant:

(If applicable) Official Position of Defendant:

(If applicable) Defendant is Sued in ✓ Individual and/or ✓ Official Capacity

Address of Defendant:

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?
Yes _____ No 1

If Yes, complete the next section. NOTE: *If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.*

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s):

Defendant(s):

2. Court (if federal court, name the district; if state court, name the county):

3. Docket or Index Number:

4. Name of Judge to whom case was assigned:

5. The approximate date the action was filed: N/A

6. What was the disposition of the case?

Is it still pending? Yes ☐ No ☐

If not, give the approximate date it was resolved. N/A

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;

☐ By court for failure to exhaust administrative remedies;

☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;

☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

☐ plaintiff

☐ defendant.

B. Have you begun any other lawsuits in federal court which relate to your imprisonment?

Yes ☐ No ☐

If Yes, complete the next section. NOTE: If you have brought more than one other lawsuit dealing with your imprisonment, use this same format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): N/A

Defendant(s): N/A

2. District Court: N/A

3. Docket Number: N/A

4. Name of District or Magistrate Judge to whom case was assigned: N/A

5. The approximate date the action was filed: N/A

6. What was the disposition of the case?

Is it still pending? Yes ☐ No ☐

If not, give the approximate date it was resolved. N/A

Disposition (check the statements which apply):

☐ Dismissed (check the box which indicates why it was dismissed):

- ☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;
- ☐ By court for failure to exhaust administrative remedies;
- ☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;
- ☐ By court due to your voluntary withdrawal of claim;

☐ Judgment upon motion or after trial entered for

- ☐ plaintiff
- ☐ defendant.

5. STATEMENT OF CLAIM

For your information, the following is a list of some of the most frequently raised grounds for relief in proceedings under 42 U.S.C. § 1983. (This list does not include all possible claims.)

- | | | |
|--------------------|------------------------|-------------------------------|
| • Religion | • Access to the Courts | • Search & Seizure |
| • Free Speech | • False Arrest | • Malicious Prosecution |
| • Due Process | • Excessive Force | • Denial of Medical Treatment |
| • Equal Protection | • Failure to Protect | • Right to Counsel |

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, tell the story of what happened to you but do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995). **Fed.R.Civ.P. 10(b)** states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

Exhaustion of Administrative Remedies

Note that according to 42 U.S.C. § 1997e(a), "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prison er confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

You must provide information about the extent of your efforts to grieve, appeal, or otherwise exhaust your administrative remedies, and you must attach copies of any decisions or other documents which indicate that you have exhausted your remedies for each claim you assert in this action.

A. FIRST CLAIM: On (date of the incident) May 28, 2013

defendant (give the **name and position held** of each defendant involved in this incident) John Doe #1
John Doe #2, John Doe #3 all correction officers

did the following to me (briefly state what each defendant named above did):

All 3 officers on separate occasions threaten the plaintiff, an openly gay inmate, with bodily harm and sexually abuse in the form of rape if specific sexual acts were not performed. I have been raped in the past and all 3 John Does are aware of this.

The constitutional basis for this claim under 42 U.S.C. § 1983 is:

the right to be free of sexual assault and rape - imminent danger of serious physical injury

The relief I am seeking for this claim is (briefly state the relief sought):

Injunction - temporary restraining order against all three John Doe correctional officers

Exhaustion of Your Administrative Remedies for this Claim:

Did you grieve or appeal this claim? Yes No If yes, what was the result?

Notified Superintendent, Deputy of Security, Administration, & Program at Southport C.F.

Did you appeal that decision? Yes No If yes, what was the result?

All 3 John Doe COs threatened me with death if grievance was filed

Attach copies of any documents that indicate that you have exhausted this claim.

If you did not exhaust your administrative remedies, state why you did not do so:

On several occasions I was threaten with death if I filed

A. SECOND CLAIM: On (date of the incident) _____

defendant (give the **name and position held** of each defendant involved in this incident) _____

8. PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF(S) REQUEST(S) THAT THIS Court grant the following relief:

Injunction only
T.R.O against all 3 John Doe
Corr. Officer; Transferred to any other facility
away from these sexual predatory officers

I declare under penalty of perjury that the foregoing is true and correct

DATED: June 4, 2013



Signature of Plaintiff(s)
(all Plaintiffs must sign)

Arrival ~~10-1~~
 Dir #9644/85
 Southport C.F.

May 30, 13

Dear Joseph Bellnier (Deputy ^{Comm.} of Fac. Operations):

Sir I am a gay male inmate being sexually harassed by officers here in Southport C.F.

In addition to their sexual harassment, they continue to act with deliberate indifference by allowing SHU porters to serve not only me my food, but other SHU inmates food. Why must there be porters in SHU? They serve no purpose but to start trouble and to do the work for lazy officers. I am not talking about Cadre porters. No. I am referring to SHU porters. Feces have been thrown on me by roaming porters and I've been deprived of food because again, these SHU porters ~~serve~~ serve the food. Something has to be done b/c I fear for my life by both officers + inmates alike. Address this issue please. Thank you

CC: Deputy of Program
 Deputy of Admin
 Deputy of SEC
 File

[Signature]

To: Commission

From: McLean 96A4181- (C1/7) Southport C.F.
Re: Rape threat

Date: June 4, 2013

I have been directly threaten once again but this time officers are threaten to have me raped-again! I went out of Southport and into a facility that has cameras! I refused to cooperate with any facility investigation b/c my life is on the line here in Southport! I refused to be raped by one of your officers! I refuse!

CC: Superintendent
Deputy of Security

lof2

Can't rest py

CC (cont): Deputy of Program

Deputy of Admin

OMH (Albany + facility level)

Dir. Employee invest. (Albany)

Inspector General

Prisoner Legal Service (Itasca NY)

Sylvia Rivera Law Project (gay rights
and protest against gay abuse)

Prisoners Rights Project of legal aid society

File